

Remarks:

With entry of the foregoing amendments, claims 1-18 remain in this application. Claims 1, 15, and 18 are currently amended.

Rejections under 35 U.S.C. § 102

Claims 1-6, 10, 13, 15, 16, 18 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 5,762,308 (Bryan). The Examiner asserts that Bryan discloses an umbrella mount made of plastic comprising a tube/tubular means (18) with a top end/means (20), a bottom end/means (near 22), a top binder comprising a top cinch strap (upper strap 16 and Velcro), a bottom binder comprising a bottom cinch strap (lower strap 16 and Velcro), support member/means for supporting (22) being a protrusion, securing member/means for adjustably securing (26), and a means for preventing slippage (24). The Examiner further asserts that Bryan inherently discloses a method of detachably securing an umbrella shaft comprising the steps of aligning, detachably, depositing, and adjusting.

In response thereto, Applicant has amended claims 1, 15, and 18 by inserting “a substantially unobstructed cylindrical outer surface.” This wording emphasizes that the outer surface of the tube is substantially unobstructed. This aspect of the umbrella mount is clearly depicted in all of the figures. Because the outer surface of the tube is substantially unobstructed, it can be rotated in relation to the support shaft as noted in the specification, page 9, lines 26-29.

In sharp contrast, Bryan discloses a clamp (24) “attached to and extending laterally from an outer surface of the container (18).” Bryan, Col. 2, Lines 40-42. A rib assembly (50) “extends between the outer surface of the container (18) and the clamp (24)” which provides

“structural support.” Bryan, Col. 3, Lines 19-22. The “clamp secures the container to a frame member.” Bryan, Abstract. Thus, the Bryan device would not function properly as-described for its intended purpose without the clamp and rib assembly. The clamp and rib assembly are depicted as covering about one-fourth of the circumference of the container (Bryan, Fig. 5) along most of the length of the container (Bryan, Fig. 2). Therefore, Bryan does not disclose a substantially unobstructed cylindrical outer surface, as Applicant claims.

Because Bryan does not disclose a substantially unobstructed cylindrical outer surface, Bryan cannot anticipate amended claims 1, 15, and 18. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. . . . The identical invention must be shown in as complete detail as is contained in the . . . claim. . . . The elements must be arranged as required by the claim” MPEP § 2131.

Withdrawal of the rejections of independent claims 1, 15, and 18 are respectfully requested.

As per claims 2-6, 10, 13, and 16, these claims depend directly or indirectly from independent claims 1, 15, and 18. Since claims 1, 15, and 18 are not anticipated by Bryan, likewise dependent claims 2-6, 10, 13, and 16 cannot be anticipated by Bryan because they contain all the limitations of the claims from which they depend. See MPEP § 608.01(n). Withdrawal of these rejections of claims 2-6, 10, 13, and 16 are therefore respectfully requested.

Rejections under 35 U.S.C. § 103

Claims 7-9 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bryan in view of U.S. Pat. No. 5,009,377 (Mangeruga). The Examiner asserts that Bryan discloses all of the limitations of the claimed invention except for a means for preventing slippage of said tube and is selected from the group consisting of one or more collar, one or more rubber collars, a non-slip coating, a textured surface, and a sticky coating. The Examiner further asserts that Mangeruga discloses a means for preventing slippage of said tube (26 and 39) including a group consisting of one or more collar, one or more rubber collars, a non-slip coating, a textured surface, and a sticky coating. The examiner concludes that it would have been obvious to one having ordinary skills in the art to have modified Bryan to have included the non-slip coating as taught by Mangeruga for the purpose of preventing the frame assembly from gravitationally turning around the axis.

In response thereto, Applicant respectfully traverses the rejection of claims 7-9 and 17 and asserts that the Examiner has failed to establish a *prima facie* case of obviousness. “To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” MPEP § 2143.03. The prior art cited by the Examiner, when combined, does not teach that a “means for preventing slippage of said tube is located on said outer surface of said tube,” (emphasis added) as recited in claims 7 and 17 (and therefore included as a limitation in dependent claims 8 and 9). Such means for preventing slippage is located on the outer surface of the tube because the means provides “friction to prevent slippage

between the tube 202 and the support shaft 104” when the tube is placed against the support shaft 104. Specification, Page 7, Lines 8-11.

In sharp contrast, the soft or resilient elastomeric lining 39 disclosed in Mangeruga is located on the “interior concave surface of sheet 27.” Mangeruga, Col. 2, Lines 15-22; Fig. 4. The Mangeruga device simply would not function properly as-disclosed if the lining was placed on an outer surface, since the area of friction between the device and the lawnmower arm 14 is on the inner surface of a clip 26. Mangeruga, Col. 2, Lines 11-24; Fig. 4. Indeed, the lining is not even located on the “leg of frame 20 between corner areas 28 and 30,” which would be more analogous to Applicant’s tube, because the leg is “offset away from the surface of clip means 26 to form a slot 32 that is adapted to accommodate flap portion 36 of a flexible bag 38.” Mangeruga, Col. 2, Lines 2-6; Fig. 3. Thus, placing the lining on the outside of the frame 20 or the clip 26 would result in an inoperable device. Mangeruga simply does not teach a means for preventing slippage that is located on the outer surface of a tube.

Withdrawal of these rejections of claims 7 and 17 are therefore respectfully requested. Likewise, withdrawal of the rejections of claims 8 and 9 are also respectfully requested, since they depend upon claim 7. “If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious.” MPEP 2143.03. Although claim 7 is obviously not an independent claim, the principle still applies.

Furthermore, claims 7-9 and 17 all depend directly or indirectly upon independent claims 1 or 15, and therefore all contain the wording “a substantially unobstructed cylindrical outer surface” inserted in the above-mentioned amendments. Neither Bryan nor Mangeruga, singly or
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in combination, disclose an outer surface that is substantially unobstructed. For this additional reason, the Examiner has failed to establish a prima facie case of obviousness.

Withdrawal of these rejections of claims 7-9 and 17 are respectfully requested.

Claims 11 and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bryan. The Examiner asserts that it would have been an obvious matter of design choice to have made the tube a length between about twelve inches and thirteen inches and an inner diameter of about one inch, since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art since the applicant has not shown how the chosen shape is critical.

In response thereto, Applicant asserts that the Examiner has failed to establish a prima facie case of obviousness, given the additional wording added to claim 1. Claims 11 and 12 depend from claim 1, and amended claim 1 is not rendered obvious by Bryan for the reasons stated above. Therefore dependent claims 11 and 12 are not rendered obvious by Bryan.

Withdrawal of these rejections of claims 11 and 12 are respectfully requested.

Claim 14 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Bryan in view of U.S. Pat. No. 5,390,884 (Skoff). The Examiner asserts that Bryan discloses all of the limitations of the claimed invention except for securing member comprising a thumb screw through a thumb screw hole. The Examiner asserts that Skoff teaches that it is known to have a securing member comprising a thumb screw through a thumb screw hole (74 and 72). The Examiner concludes that it would have been obvious to one having ordinary skill in the art to

have modified Bryan to have included the thumb screw through a thumb screw hole as taught by Skoff for the purpose of stabilizing the umbrella shaft and preventing removal from the tube.

In response thereto, Applicant asserts that the Examiner has failed to establish a prima facie case of obviousness, given the additional wording added to claim 1. Claim 14 depends from claim 1, and amended claim 1 is not rendered obvious by Bryan for the reasons stated above. Therefore dependent claim 14 is not rendered obvious by Bryan. Likewise, dependent claim 14 as amended is not rendered obvious by Skoff or by the combination of Skoff and Bryan either.

Withdrawal of the rejection of claim 14 is respectfully requested.

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Response is respectfully requested.

Respectfully submitted,

STEPTOE & JOHNSON PLLC

/Michael B. Pallay/

Michael B. Pallay
Attorney for Applicant
Registration No. 50,230

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Chase Tower
P.O. Box 2190
Clarksburg, WV 26302
(304) 624-8000